

REMARKS

The Examiner has indicated allowance of claims 1 through 25, 27 and 29 through 50. However, the Examiner has maintained the rejection of claims 26, 28, 51 and 52 under 35 U.S.C. §101 for non-statutory subject matter. In view of the following remarks, the Applicant respectfully requests the Examiner to reconsider the pending 101 rejections.

The Section 101 Rejections

The Examiner has rejected claims 26, 28, 51 and 52 under 35 U.S.C. §101 for non-statutory subject matter. The Examiner has kindly referred to the relevant section of the MPEP 2106.IV.B.1(a) for the pending rejections. Although the Examiner has categorized the claimed invention of independent claims 26, 28, 51 and 52 as non-statutory “data structure” or “functional descriptive material,” the last sentence of the same section MPEP 2106.IV.B.1(a) on 2100-13 reads as follows:

When a computer program is recited in conjunction with a physical structure, such as a computer memory, Office personnel should treat the claim as a product claim. See paragraph IV.B.2(a), below.

According to paragraph IV.B.2(a):

(a) Statutory Product Claims Products may be either machines, manufactures, or compositions of matter.

A machine is “a concrete thing, consisting of parts or of certain devices and combinations of devices.” *Burr v. Duryee*, 68 U.S. (1 Wall.) 531, 570 (1863).

A manufacture is “the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties or combinations, whether by hand labor or by machinery.” *Chakrabarty*, 447 U.S. at 308, 206 USPQ at 196-97 (quoting *American Fruit Growers, Inc. v. Brogdex Co.*, 283 U.S. 1, 11 (1931)).

....

If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., Lowry, 32 F.3d at 1583, 32 USPQ2d at 1034-35; Warmerdam, 33 F.3d at 1361-62, 31 USPQ2d at 1760.

Independent claims 26 and 28 recite “a computer program ... in conjunction with a physical structure” such as “the image formation apparatuses.” Similarly, independent claims 51 and 52 recite “a computer program ... in conjunction with a physical structure” such as “the image formation apparatus” and “a memory.” Thus, these independent claims qualify for the statutory subject matter under paragraph IV.B.2(a).

Furthermore, according to the paragraph IV.B.2(b), “[t]o be statutory, a claimed computer-related process must be either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts (discussed in (ii) below). In the currently pending claims, the result is “a physical transformation outside the computer” since the corrected image data is printed on image recording sheets. Furthermore, even if the printed matter is not considered as physical transformation, a claimed computer-related process is limited to a practical application within the technological arts. On page 2100-18, it is stated that “[a] claim is limited to a practical application when the method, as claimed, produce a concrete, tangible and useful result.” That is, “the method recites a step or act of producing something that is concrete, tangible and useful.” According to amended independent claims 26, 28, 51 and 52, the draft image input is “corrected” to generate corrected image data which has produced “concrete, tangible and useful” results. Thus, the Applicant respectfully submits to the Examiner that amended claims 26, 28, 51 and 52 now contain statutory subject matter.

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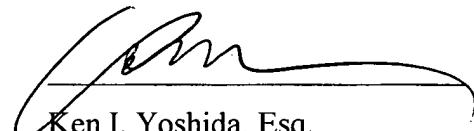
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For the above reasons, the Applicant respectfully requests the Examiner reconsider the pending rejections and withdraw the pending rejections of claims 26, 28, 51 and 52.

Conclusion

In view of the above remarks and attachments, the Applicants respectfully submits that all of the pending claims are in condition for allowance and respectfully request a favorable Office Action so indicating.

Respectfully submitted,



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